

Application No.: 09/817,682

Docket No.: JCLA5662-CIP-R2

REMARKS**Present Status of the Application**

The Office Action rejected claims 1-6. Specifically, the Office Action rejected claim 6 under 35 U.S.C. 102(e) as being anticipated by Kepler et al. (U. S. Patent 6,037,671; hereinafter Kepler). The Office Action rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Kepler. Claims 1-6 remain pending in the present application, and reconsideration of those claims is respectfully requested.

Discussion of Claim Rejections under 35 USC 102

Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by Kepler. Applicants respectfully traverse the rejections for at least the reason set forth below.

As described in specification (i.e. page 2, lines 1-6; or even see claim 3), the present invention is to configure the alignment mark, so as to prevent the device trench, such as the shallow trench isolation structure not belonging to the alignment mark. The shallow trench isolation structure, as known by the ordinary skilled artisan in semiconductor, is used to isolate the semiconductor device, such as the MOS transistor. In other words, *the trench not belonging to the alignment mark, as recited in claim 6, is not in use for alignment.*

In re Kepler, *Kepler clearly discloses that the alignment marks comprises a plurality of first sections 22 and a plurality of the second sectiond 23* (col. 4, lines 33-37). In Fig. 3 and Fig. 4, the several sections 23 are shown. However, several sections 22 and several sections 23 form the alignment mark pattern. The Office Action has improperly construed the "middle section" 23, indicated in drawing of the Office Action. The "middle section" 23 is still

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belonging to the alignment marks. Even further, *the sections 22 are also belonging to the alignment marks between adjacent two sections 23*. In other words, both two sections 23 and one section 22 in FIG. 4 are a part of the alignment marks.

With at least the foregoing reasons, Kepler does not disclose the features of the present invention, and therefore claim 6 of the present invention is distinguishable over Kepler.

Discussion of Claim Rejections under 35 USC 103

The Office Action rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Kepler. Applicants respectfully traverse the rejections for at least the reason set forth bellow.

With at least the reasons applied to claim 6, both two sections 23 and section 22 in FIG. 4 are a part of the alignment marks. The trench is known as a device trench, belonging to a portion of device structure but not for use in alignment.

With respect claim 3, the trench is more specifically defined as the shallow trench isolation structure. As well known, the shallow trench isolation structure is used to isolate the semiconductor structure, such as the MOS transistor device. The shallow trench isolation structure is not an alignment mark.

The Office Action has improperly construed the disclosure in Kepler. It is believed that claim 1-5 have distinguished over Kepler.

For at least the foregoing reasons, Applicant respectfully submits that independent claims 1 and 6 patently define over the prior art, and should be allowed. For at least the same reasons, dependent claims 2-5 patently define over the prior art references as well.

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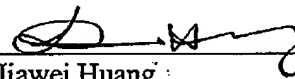
CONCLUSION

For at least the foregoing reasons, it is believed that all the pending claims 1-6 of the invention patently define over the prior art and are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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Respectfully submitted,
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